

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Brian Anthony Varnado,

File No. 20-cv-1643 (ECT/HB)

Petitioner,

v.

**ORDER**

Tracy Beltz, Warden, Minnesota Department  
of Corrections,

Respondent.

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Brian Anthony Varnado, *pro se*.

Adam E. Petras, Hennepin County Attorney's Office, Minneapolis, MN; Edwin William Stockmeyer, III and Matthew Frank, Officer of the Minnesota Attorney General, St. Paul, MN, for Respondent Tracy Beltz.

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Petitioner Brian Anthony Varnado commenced this action by filing a Petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. Magistrate Judge Hildy Bowbeer has issued a Report and Recommendation ("R&R") in which she recommends dismissing the Petition with prejudice. R&R at 19 [ECF No. 14]. Magistrate Judge Bowbeer concludes that Varnado's habeas claims are procedurally defaulted and that, even if they weren't, each claim fails on the merits. *Id.* at 5–19. Varnado has filed a three-page objection to the R&R.<sup>1</sup> ECF No. 15. Varnado's objections are in some respects difficult

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<sup>1</sup> Under Local Rule 72.2(b)(1), "[a] party may file and serve specific written objections to a magistrate judge's proposed findings and recommendations within 14 days after being served with a copy" of the R&R. The R&R issued on December 14, 2020. ECF No. 14. Because Varnado was served with the R&R by mail and because December 31

to comprehend. For the most part, Varnado seems merely to repeat the same arguments that the R&R carefully considers and rejects. *See* ECF Nos. 1, 3, 14, 15. Varnado's objections have nonetheless been liberally construed and the R&R reviewed de novo under 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b)(3). Based on that review, the objections will be overruled, and the R&R accepted, as modified, to reflect that no certificate of appealability will issue.

Therefore, based upon all the files, records, and proceedings in this matter, **IT IS ORDERED THAT:**

1. Petitioner's Objection to the Report and Recommendation [ECF No. 15] is **OVERRULED**.
2. The Report and Recommendation [ECF No. 14] is **ACCEPTED** as modified.
3. The Petition for Writ of Habeas Corpus [ECF No. 1] is **DENIED with prejudice**.
4. This action is **DISMISSED**.
5. No certificate of appealability will issue.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: February 22, 2021

s/ Eric C. Tostrud

Eric C. Tostrud

United States District Court

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and January 1 were legal holidays, his deadline to file objections was extended to January 4. *See* Fed. R. Civ. P. 6(a), 6(d).